

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

ANTHONY McGINNIS, P-19835,  
Plaintiff,  
v.  
A.T. RAMOS,  
Defendant.

Case No.: 15-CV-2812 JLS (JLB)

**ORDER: (1) ADOPTING REPORT  
AND RECOMMENDATION, AND (2)  
GRANTING IN PART AND  
DENYING IN PART DEFENDANTS'  
MOTION TO DISMISS**

(ECF Nos. 9, 23)

Presently before the Court are (1) Defendant A.T. Ramos's Motion to Dismiss (ECF No. 9), and (2) Magistrate Judge Jill L. Burkhardt's Report and Recommendation granting in part and denying in part Defendant's Motion to Dismiss ("R&R," ECF No. 23).

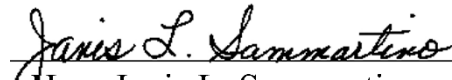
Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b)(1) set forth a district court's duties in connection with a magistrate judge's R&R. The district court must "make a de novo determination of those portions of the report to which objection is made," and "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1); *see also United States v. Raddatz*, 447 U.S. 667, 673–76 (1980); *United States v. Remsing*, 874 F.2d 614, 617 (9th Cir. 1989). In the absence of timely objection, however, the Court "need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R.

1 Civ. P. 72 advisory committee's note (citing *Campbell v. U.S. Dist. Court*, 501 F.2d 196,  
2 206 (9th Cir. 1974)).

3 Here, Plaintiff failed to file timely objections to Judge Burkhardt's R&R. Having  
4 reviewed the R&R, the Court finds that it is well reasoned and contains no clear error.  
5 Accordingly, the Court (1) **ADOPTS** in its entirety Judge Burkhardt's R&R (ECF No. 23),  
6 and (2) **GRANTS IN PART** and **DENIES IN PART** Defendant's MTD (ECF No. 9).  
7 Plaintiff **SHALL FILE** an amended complaint, if any, on or before March 3, 2017. *Failure*  
8 *to file an amended complaint by this date may result in dismissal.*

9 **IT IS SO ORDERED.**

10 Dated: February 3, 2017

  
11 Hon. Janis L. Sammartino  
12 United States District Judge  
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